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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DARWIN MAZARIEGOS-DIAZ,)	Case No. 2:17-cv-00440-JCM-GWF
)	
Plaintiff,)	
)	STIPULATION TO STAY DISCOVERY
v.)	
)	
UNITED STATES OF AMERICA;)	
JESSICA JACOBSEN,)	
)	
Defendants.)	

IT IS HEREBY STIPULATED between Plaintiff Darwin Mazariegos-Diaz and
Defendant United States as follows:

During their Rule 26(f) conference, counsel agreed to stay discovery pending disposition of a motion for summary judgment. The United States anticipates being able to file the motion in the next approximately thirty days. The basis for the anticipated motion is the six month limitations period in 28 U.S.C. § 2401(b), part of Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 1402(b), 2401(b), 2402, 2671-2680 ("FTCA"). Because this limitations period commences from service of the federal agency's letter denying Plaintiff's administrative tort claim, and such denial letter is not mentioned in Plaintiff's Complaint, the United States will raise the limitations period defense through a motion for summary judgment rather than a motion to dismiss.

1 If granted, the motion for summary judgment will be dispositive of the entire case.

2 Counsel agree that it would be prudent and conserve resources and expenses to have
3 such motion adjudicated before engaging in discovery.

4 This Court has previously approved stays of discovery pending adjudication of a
5 limitations period defense. *See, e.g., Holmes v. Metro. Police Dep't*, No. 2:13-cv-00877-APG-
6 GWF, 2014 WL 3734282, at *3 (D. Nev. July 29, 2014).

7 Accordingly, counsel stipulate to, and request that this Court approve, a stay of
8 discovery pending adjudication of the United States' upcoming motion for summary judgment.

9 In entering into this stipulation, Plaintiff agrees only to the stay of discovery; nothing
10 herein should be construed as an admission or waiver by Plaintiff relative to the merits of the
11 limitations period defense.

12 Respectfully submitted this 24th day of August 2017.

13 PATTI, SGRO & ROGER

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15 /s/ Andrew D. Sedlock
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22 **IT IS SO ORDERED:**

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UNITED STATES MAGISTRATE JUDGE

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26 **DATED:** 8/28/2017
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